

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

LARRY WAITMAN and ROBIN WAITMAN,)
individually and on behalf of similarly-situated)
employees)
Plaintiffs,)
)
v.) No. 3:14-CV-234-TAV-HBG
)
SMOKY MOUNTAIN CHILDREN'S HOME,)
)
Defendant.)

CALVIN MCNABB, GLORIA ALMARAZ,)
GRAYSON DAGNAN, and KYLE PEACOCK,)
individually and on behalf of similarly-situated)
employees,)
Plaintiffs,)
)
v.) No. 3:16-CV-140-TAV-HBG
)
SMOKY MOUNTAIN CHILDREN'S HOME,)
)
Defendant.)

ORDER OF CONSOLIDATION

These cases are before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court are two Joint Motions to Consolidate [Docs. 111, 20], which were filed by the parties in Waitman et al. v. Smoky Mountain Children's Home, 3:14-cv-234 and McNabb et al. v. Smoky Mountain Children's Home, 3:16-cv-140, respectively. In their motion, the parties request that Waitman et al. v. Smoky Mountain Children's Home, 3:14-cv-234 be consolidated with McNabb et al. v. Smoky Mountain Children's Home, 3:16-cv-140. The parties

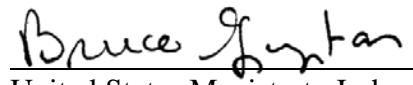
state that both cases have settled and that the parties intend to file a joint motion to approve the settlement as soon as both actions are consolidated. Further, the parties explain that the factual and legal issues in Waitman overlap with the McNabb lawsuit. The parties state that in both cases, they disputed whether the Defendant is subject to “enterprise coverage” under the Fair Labor Standards Act. In addition, the parties disputed over overlapping issues, including the number of hours worked by the Plaintiffs, whether the costs of food and housing provided to the Plaintiffs constituted wages, the proper calculation of the “regular rates” for the Plaintiffs, whether the “fluctuating workweek” method of calculating overtime pay applied, and what statute of limitations applied. Finally, the parties state that the Waitman Plaintiffs and the McNabb Plaintiffs are represented by the same counsel and that the parties in both cases have reached a global settlement.

The Court finds that Federal Rule of Civil Procedure 42(a) permits the Court to consolidate cases that present common questions of law or fact. The Court finds that these cases present common questions of law and fact, and the Court finds that it is appropriate to consolidate the two actions. Accordingly, the Court finds that the Joint Motions to Consolidate [**Docs. 111, 20**] are well-taken, and they are **GRANTED**.

Because it is the first-filed of the two cases, it is **ORDERED** that Waitman et al. v. Smoky Mountain Children's Home, 3:14-cv-234 **SHALL SERVE** as the lead case for purposes of this consolidation, and all future filings shall **only** be made in Waitman et al. v. Smoky Mountain Children's Home, 3:14-cv-234.

IT IS SO ORDERED.

ENTER:



United States Magistrate Judge